



# Companies Act 1985

## 1985 CHAPTER 6

### PART V

#### SHARE CAPITAL, ITS INCREASE, MAINTENANCE AND REDUCTION

### CHAPTER VIII

#### MISCELLANEOUS PROVISIONS ABOUT SHARES AND DEBENTURES

#### *Debentures*

#### **192 Liability of trustees of debentures**

- (1) Subject to this section, any provision contained—
- (a) in a trust deed for securing an issue of debentures, or
  - (b) in any contract with the holders of debentures secured by a trust deed,
- is void in so far as it would have the effect of exempting a trustee of the deed from, or indemnifying him against, liability for breach of trust where he fails to show the degree of care and diligence required of him as trustee, having regard to the provisions of the trust deed conferring on him any powers, authorities or discretions.
- (2) Subsection (1) does not invalidate—
- (a) a release otherwise validly given in respect of anything done or omitted to be done by a trustee before the giving of the release ; or
  - (b) any provision enabling such a release to be given—
    - (i) on the agreement thereto of a majority of not less than three-fourths in value of the debenture holders present and voting in person or, where proxies are permitted, by proxy at a meeting summoned for the purpose, and
    - (ii) either with respect to specific acts or omissions or on the trustee dying or ceasing to act.

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*Status: This is the original version (as it was originally enacted).*

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- (3) Subsection (1) does not operate—
- (a) to invalidate any provision in force on 1st July 1948 so long as any person then entitled to the benefit of that provision or afterwards given the benefit of that provision under the following subsection remains a trustee of the deed in question ; or
  - (b) to deprive any person of any exemption or right to be indemnified in respect of anything done or omitted to be done by him while any such provision was in force.
- (4) While any trustee of a trust deed remains entitled to the benefit of a provision saved by subsection (3), the benefit of that provision may be given either—
- (a) to all trustees of the deed, present and future; or
  - (b) to any named trustees or proposed trustees of it,
- by a resolution passed by a majority of not less than three-fourths in value of the debenture holders present in person or, where proxies are permitted, by proxy at a meeting summoned for the purpose in accordance with the provisions of the deed or, if the deed makes no provision for summoning meetings, a meeting summoned for the purpose in any manner approved by the court.